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Of Attorneys for Debtor-in-Possession

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF OREGON

In re

Fizz & Bubble, LLC

Debtor-in-Possession.

Case No. 19-34092-tmb11

DEBTOR-IN-POSSESSION'S MOTION  
TO DETERMINE ADEQUATE  
ASSURANCE TO UTILITY COMPANIES

**NOTICE**

If you oppose the proposed course of action or relief sought in this Application, you must file a written objection with the bankruptcy court no later than fourteen (14) days after the date listed in the certificate of service below. If you do not file an objection, the Court may grant the Application without further notice or hearing. Your objection must set forth the specific grounds for objection and your relation to the case. The objection must be received by the clerk of court at 1050 SW 6th Avenue #700, Portland, OR 97204, by the deadline specified above or it may not be considered. You must also serve the objection on Debtor, c/o Douglas R. Ricks, Vanden Bos & Chapman, LLP, 319 SW Washington Street, Suite 520, (503) 241-4869, within that same time. If the Court sets a hearing, you will receive a separate notice listing the hearing date, time, and other relevant information.

Debtor-in-Possession, Fizz & Bubble, LLC ("Debtor"), hereby moves this Court for an order determining adequate assurance to utility companies, and in support thereof states as follows:

1. On November 4, 2019 (the "Petition Date"), Debtor filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code.

2. Debtor has continued in possession of Debtor's property and is continuing to operate and manage Debtor's business pursuant to §§ 1107(a) and 1108 of the Bankruptcy Code.

3. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334(b) and the standing order of reference of the District Court. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper under 28 U.S.C. §§ 1408 and 1409.

4. Debtor has attached hereto its **Proposed** Order Determining Adequate Assurance to Utility Companies ("Proposed Order") marked as **Exhibit A** for treatment of the utility companies set forth on **Exhibit 1** ("**Exhibit 1**") attached to Debtor's Proposed Order.

5. In connection with the operation of Debtor's business, Debtor obtains electric, gas, water, and similar services (collectively the "Utility Services") from several utility companies (the "Utility Companies"). **Exhibit 1** is a list of substantially all of the Utility Companies that provide Utility Services to the Debtor as of the Petition Date. The relief requested herein is requested with respect to all Utility Companies providing Utility Services to Debtor and is not limited only to those entities listed on **Exhibit 1**.

6. Pursuant to 11 U.S.C. § 366(c)(2), a Utility Company may alter, refuse, or discontinue utility service to a debtor if within 30 days after the Petition Date the debtor does

not provide adequate assurance of payment for post-petition Utility Services in a form that is satisfactory to the Utility Company. Debtor seeks an order determining the appropriate form of adequate assurance of future performance and thereby prohibiting any Utility Company from altering, refusing, or discontinuing Utility Services absent further court order.

7. Debtor proposes to provide adequate assurance of payment in the form of a one-month deposit by Debtor to the Utility Companies which request such a deposit, in the initial amounts set forth in **Exhibit 1**.

8. The one-month deposits made upon request of each Utility Company shall be deemed to be adequate assurance of payment for purposes of 11 U.S.C. § 366 without prejudice to the Utility Companies' right to seek additional or alternative assurance of payment upon further request of this Court. Debtor requests that any Utility Company seeking additional or alternative forms of adequate assurance be prohibited from altering, refusing, or discontinuing Utility Services pending further order of this Court.

9. If Utility Companies are permitted to terminate Utility Services without notice to Debtor or an opportunity for hearing, Debtor's business could be severely impacted resulting in significant losses. The impact on Debtor's business operations, revenue and restructuring efforts could be devastating. Accordingly, it is important that the Utility Services remain uninterrupted.

10. In determining adequate assurance, the Court is not required to give the Utility Companies the equivalent of a guarantee of payment but must only determine that the utility is not subject to an unreasonable risk of nonpayment for post-petition services. See *In re Caldor, Inc.* - NY, 199 B.R. 1 (SDNY 1996); *In re Santa Clara Circuits West, Inc.*, 27 BR

680, 685 (Bankr. D. Utah 1982); *In re George C. Frye Co.*, 7 BR 856, 858 (Bankr. D. Me 1980).

11. The adequate assurance proposed herein consisting of a cash deposit upon request equal to one month of service for each identified utility will provide satisfactory assurance of payment. Furthermore, requiring a court order prior to the alteration, refusal, or discontinuance of Utility Services by any Utility Company will protect Debtor's business operations from being disrupted in the event a Utility Company unilaterally determines that the proposed adequate assurance of payment is not appropriate.

12. Debtor's proposed assurance of payment is in the best interest of Debtor and Debtor's creditors and will enable Debtor to continue to operate Debtor's business in the ordinary course.

13. Debtor has provided notice of this motion to the United States Trustee, to Debtor's secured creditors, to holders of the 20 largest unsecured claims, any party requesting special notice and, to the Utility Companies identified on **Exhibit 1** attached hereto. No unsecured creditors' committee has yet been appointed in this case. No further notice is necessary.

WHEREFORE, Debtor prays that this Court enter the Proposed Order determining that the payment of a deposit equal to one-month's average services upon request by a Utility Company in the amounts set forth in **Exhibit 1** constitutes adequate assurance of payment in accordance with 11 USC §366 unless and until further order of this Court and prohibiting any Utility Company from altering, refusing, or discontinuing Utility Services

without further order of this Court or granting such other form of adequate assurance as the court may deem necessary or appropriate.

Dated: November 4, 2019

VANDEN BOS & CHAPMAN, LLP

By: /s/Douglas R. Ricks  
Douglas R. Ricks, OSB 044026  
Of Attorneys for Debtor-in-Possession

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF OREGON

In re

Fizz & Bubble, LLC

Debtor-in-Possession.

Case No. 19-34092-tmb11

**PROPOSED ORDER DETERMINING  
ADEQUATE ASSURANCE TO UTILITY  
COMPANIES**

THIS MATTER having come before the Court upon Debtor-in-Possession, Fizz & Bubble, LLC's ("Debtor"), Motion for Order Determining Adequate Assurance to Utility Companies filed by the Debtor and the matter having come before the Court for hearing and the Court being duly advised in the premises and finding good cause therefor;

NOW, THEREFORE, IT IS HEREBY ORDERED for each Utility Company that requests a deposit, payment of a deposit equal to one-month's average services to each Utility Company, as set forth in **Exhibit 1** attached hereto constitutes adequate assurance of payment in accordance with 11 USC §366 unless and until further order of this Court and all utility companies are hereby prohibited from altering, refusing, or discontinuing utility service without further order of this Court. Provided, however, that this order is without prejudice to

any utility company's right to seek additional or alternative assurance of payment upon further request of this Court.

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**PRESENTED BY:**

VANDEN BOS & CHAPMAN, LLP

By: /s/Douglas R. Ricks  
Douglas R. Ricks, OSB 044026  
Of Attorneys for Debtor-in-Possession

**LBR 9021-1 CERTIFICATION**

I certify that I have complied with the requirement of LBR 9021-1(a); Order circulated as Proposed Order to Motion.

By: /s/Douglas R. Ricks  
Douglas R. Ricks, OSB 044026

**First Class Mail:**

See Attached List. (The original Service List is attached to the original copy filed with the Court only. Creditors may request a copy of the Service List by contacting the undersigned.)

**Electronic Mail:**

The foregoing was served on all CM/ECF participants through the Court's Case Management/Electronic Case File system.

**FIZZ BUBBLE, LLC  
UTILITY COMPANIES**

<b>Name of Utility Company</b>	<b>Mailing Address</b>	<b>City, State Zip</b>	<b>Account #</b>	<b>Type of Service Provided</b>	<b>Total amount paid during last 12 months</b>	<b>Deposit Amount*</b>
PGE - Wilsonville	121 SW Salmon Street	Portland, OR 97204	1716821000	Electricity	\$ 6,228.05	\$ 519.00
PGE - 2nd Meter - Wilsonville	121 SW Salmon Street	Portland, OR 97204	8916965045	Electricity	\$ 14,400.00	\$ 1,200.00
PGE Molalla	121 SW Salmon Street	Portland, OR 97204	7850352723	Electricity	\$ 4,348.37	\$ 362.36
Republic Wilsonville	PO Box 78829	Phoenix, AZ 85062-8829	3-0455-0027834	Garbage 20 Cy Yard	\$ 18,069.98	\$ 1,505.83
Republic Wilsonville	PO Box 78829	Phoenix, AZ 85062-8829	3-0455-1119650	Recycle Container	\$ 1,848.60	\$ 154.05
Molalla Sanitary Service	PO Box 1808	Oregon City, OR 97045-0808	71059000	Garbage	\$ 807.53	\$ 67.29
Comcast	PO Box 37601	Philadelphia, PA 19101-0601	962984879	Voice Edge - Phones	\$ 12,529.91	\$ 1,044.16
Comcast	PO Box 37601	Philadelphia, PA 19101-0601	935485970	Internet/Ethernet	\$ 12,280.72	\$ 1,023.39
NW Natural Gas	PO Box 6017	Portland, OR 97228	3486182-3	Gas - Wilsonville office	\$ 2,237.15	\$ 186.43
Direct Link (Molalla)	PO Box 880	Canby, OR 97013	5985500	Internet @ the FC	\$ 678.37	\$ 56.53
<b>*Deposit amount equals average monthly useage over last 12 months.</b>						

CERTIFICATE - TRUE COPY

DATE: November 5, 2019

DOCUMENT: DEBTOR-IN-POSSESSION'S MOTION TO DETERMINE ADEQUATE  
ASSURANCE TO UTILITY COMPANIES; and PROPOSED ORDER  
DETERMINING ADEQUATE ASSURANCE TO UTILITY COMPANIES

I hereby certify that I prepared the foregoing copies of the foregoing named documents and have carefully compared the same with the originals thereof and they are correct copies therefrom and of the whole thereof.

CERTIFICATE OF SERVICE

I hereby certify that I served copies of the foregoing on:

See Attached List. (The original Service List is attached to the original copy filed with the Court only. Creditors may request a copy of the Service List by contacting the undersigned.)

by mailing copies of the above-named documents to each of the above in a sealed envelope addressed to the last known address. Each envelope was deposited into the postal system at Portland, Oregon, on the above date, postage prepaid.

I hereby certify that the foregoing was served on all CM/ECF participants through the Court's Case Management/Electronic Case File system on the date set forth below.

Dated: November 5, 2019

VANDEN BOS & CHAPMAN, LLP

By: /s/Douglas R. Ricks  
Douglas R. Ricks, OSB 044026  
Of Attorneys for Debtor-in-Possession

In re Fizz & Bubble, LLC;  
Ch 11 Bankruptcy Case No. 19-34092-tmb11

**20 LARGEST UNSECURED CREDITORS**

Bruce Wood, LLC  
Attn: Bruce Wood  
0932 SW Palatine Hill Rd.  
Portland, OR 97219

Capital Funding ASAP, LLC  
695 Cross Street  
Lakewood, NJ 08701

Connie Smith  
0932 SW Palatine Hill Rd  
Portland, OR 97219

Diane Humke  
32272 Apple Valley Rd  
Scappoose, OR 97056

Erik Piper  
4032 SE Ogden Street  
Portland, OR 97202

Ernest Packaging Solutions  
9255 NE Alderwood Rd  
Portland, OR 97220

Express Services  
PO Box 4427  
Portland, OR 97208

Harsch Investment Property  
1620 SW Taylor, Suite 300  
Portland, OR 97205

IDL Worldwide  
PO Box 536642  
Pittsburg, PA 15253

IPT  
PO Box 206918  
Dallas, TX 75320

Kenneth Humke  
1432 SE 72nd Ave  
Portland, OR 97015

LTK LLC  
5648 Evans Valley  
Loop Road NE  
Silverton, OR 97381

Now CFO  
5251 S Green Street, Suite 350  
Murray, UT 84123

OMEP  
7650 SW Beveland St, Ste 170  
Portland, OR 97223

Oswego Financial Services  
0932 SW Palatine Hill Road  
Portland, OR 97219

Premier Press  
5000 N Basin Ave  
Portland, OR 97217

Queen Funding, LLC  
Attn: Jordan Jenson  
101 Chase Ave, Suite 208  
Lake Wood, NJ 08701

RPG  
119 West 57th Street  
New York, NY 10019

Tricor Brands  
7931 NE Halsey St, #101  
Portland, OR 97213

Valerie Humke  
1919 NW 87th Circle  
Vancouver, WA 98665

**SECURED CREDITORS:**

Bruce Wood, LLC  
Attn: Bruce Wood  
0932 SW Palatine Hill Rd.  
Portland, OR 97219

Capital Funding ASAP LLC  
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New York, NY 10038

Capital Funding ASAP, LLC  
695 Cross Street  
Lakewood, NJ 08701

Capital Funding ASAP, LLC  
c/o Isaac Greenfield, Esq.  
26 Broadway, Suite 375  
New York, NY 10004

Connie Smith  
0932 SW Palatine Hill Rd  
Portland, OR 97219

Decathlon Alpha III, LP  
Attn: John Borchers  
1441 West Ute Blvd, Suite 240  
Park City, UT 84098

Decathlon Alpha III, LP  
c/o The Corporation Trust  
Company, RA  
780 Commercial St SE Ste 100  
Salem, OR 97301

Decathlon Alpha III, LP  
c/o The Corporation Trust  
Company, RA  
Corp Trust Ctr - 1209 Orange St  
Wilmington, DE 19801

Diane Humke  
32272 Apple Valley Rd  
Scappoose, OR 97056

Erik Piper  
4032 SE Ogden Street  
Portland, OR 97202

Kenneth Humke  
1432 SE 72nd Ave  
Portland, OR 97015

Queen Funding, LLC  
Attn: Jordan Jenson  
101 Chase Ave, Suite 208  
Lake Wood, NJ 08701

Queen Funding, LLC  
c/o Joe Liberman, Esq.  
101 Chase Ave, Ste 208  
Lakewood, NJ 08701

Unique Funding Solutions, LLC  
Attn: Jordan Jenson  
2715 Coney Island Ave  
Brooklyn, NY 11235

Valerie Humke  
1919 NW 87th Circle  
Vancouver, WA 98665

WG Fund, LLC  
Attn: Jordan Jenson  
1980 Swarthmore Ave  
Lakewood, NJ 08701

**UTILITY COMPANIES:**

PGE - Wilsonville  
121 SW Salmon Street  
Portland, OR 97204

PGE - 2nd Meter - Wilsonville  
121 SW Salmon Street  
Portland, OR 97204

In re Fizz & Bubble, LLC;  
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PGE Molalla  
121 SW Salmon Street  
Portland, OR 97204

PGE  
c/o Stephen A. Redshaw,  
Registered Agent  
121 SW Salmon St.  
Portland, OR 97204

Republic Services of Clackamas  
and Washington Counties  
PO Box 78829  
Phoenix, AZ 85062-8829

Republic Services of Clackamas  
and Washington Counties  
PO Box 78829  
Phoenix, AZ 85062-8829

Keller Drop Box, Inc.,  
dba Republic Services  
c/o C T Corp Systems,  
Registered Agent  
780 Commercial St SE Ste 100  
Salem, OR 97301

Molalla Sanitary Service, Inc.  
PO Box 1808  
Oregon City, OR 97045-0808

Molalla Sanitary Service, Inc.  
c/o Charles J. Huber,  
Registered Agent  
900 SW 5th Ave, 24th Flr  
Portland, OR 97204

Comcast  
PO Box 37601  
Philadelphia, PA 19101-0601

Comcast  
PO Box 37601  
Philadelphia, PA 19101-0601

Comcast Business Communications,  
LLC  
c/o C T Corp Systems,  
Registered Agent  
780 Commercial St SE Ste 100  
Salem, OR 97301

NW Natural Gas  
PO Box 6017  
Portland, OR 97228

Northwest Natural Gas Company  
c/o Mardilyn Saathof,  
Registered Agent  
220 NW 2nd Ave.  
Portland, OR 97209

DirectLink (Molalla)  
PO Box 880  
Canby, OR 97013

DirectLink of Oregon  
c/o Canby Telephone  
Association,  
Authorized Registrant  
PO Box 880  
Canby, OR 97013

Canby Telephone Association,  
dba DirectLink of Oregon  
c/o Paul Hauer,  
Registered Agent  
190 SE 2nd Ave.  
Canby, OR 97013